

REMARKS

By this paper, independent claims 1, 19 and 20 have been amended and dependent claim 9 has been canceled. Accordingly, claims 1-8 and 10-20 are pending.

In the February 21, 2007 outstanding Office action, claims 1-5, 7, 8, 12, 13, and 15-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by Gomez et al. (6,629,994). Additionally, claims 1, 7, 8, 13, 14 and 17-19 were rejected under § 102(e) as being anticipated by Herklots et al. (6,264,688). Furthermore, claims 6, 9 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gomez et al. and claims 11, 17 and 18 were rejected under § 103(a) as being unpatentable over Gomez et al. in view of Chen et al. (2002/0058989).

With respect to the § 103(a) rejections of the claims, it is respectfully submitted that the Gomez et al. reference is not available as prior art under 35 U.S.C. § 103(c). That is, the Gomez et al. patent only qualifies as prior art under § 102(e) and at the time the invention recited in the pending claims were made, the Gomez et al. patent was owned by the same entity as that of the present application. Accordingly, it is respectfully submitted that a *prima facie* case of obviousness has not been made out with respect to claims 6, 9, 10, 11, 17 and 18.

Moreover, it is respectfully submitted that independent claims 1, 19 and 20 now recite subject matter which is clearly patentable over the cited art. That is, each of independent claims 1, 19 and 20 now recite the subject matter of canceled claim 9 which recited a stent including at least one link wherein each link has two circumferentially extending transitions. Significantly, canceled claim 9 was impermissibly rejected under § 103(a) in view of the Gomez et al. patent. Therefore, it is believed that each of independent claims 1, 19 and 20 as well as their respective dependent claims are now in a condition for allowance.

CONCLUSION

In view of the above remarks, Applicants respectfully request that the application be reconsidered, the claims allowed and the application passed to issue.

Respectfully submitted,

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